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Attention: USPTO Petitions

Date: 7/12/05

Company: USPTO

Number of Pages: 15

Fax Number: 1-703-872-9306

Voice Number:

From: M. Reid Russell

Company: None

Fax Number: 435-635-3016

Voice Number: 435-635-3579

Subject: Petition for Revival Ser. No :10/774,007

Comments:

Included with this cover sheet are 15 sheets: Credit Card payment form, Petition For Revival form (3 pages), copy of the Notice of Abandonment, copy of the Response as was sent 02/09/2005 (8 pages), copy of the return receipt postcard and an Affidavitt (3 pages).

Yours Truly,  
M. Reid Russell

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JUL 12 2005

PTO/SB/61 (09-04)

Approved for use through 07/31/2006. OMB 0631-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED**  
**UNAVOIDABLY UNDER 37 CFR 1.137(a)**

## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

M. Reid Russell  
 Signature

7/12/05  
 Date

M. Reid Russell  
 Typed or printed name

26,226  
 Registration Number, if applicable

854 West 3390 South  
 Address

435-674-5739  
 Telephone Number

Hurricane, Utah 84737  
 Address

- Enclosure ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unavoidable delay
- ☐ \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9308.

7/12/05  
 Date

M. Reid Russell  
 Signature

M. Reid Russell  
 Typed or printed name of person signing certificate

(Page 2 of 3)

**RECEIVED**  
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**JUL 12 2005**

PTO/SB/81 (09-04)

Approved for use through 07/31/2008, OMB 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)</b>		<b>Docket Number (Optional)</b>  <b>7676</b>
First Named Inventor: <b>Monte B. Willis</b> Art Unit: <b>3643</b> Application Number: <b>10/774,007</b> Examiner: <b>Son T. Nguyen</b> Filed: <b>02/09/2004</b> Title: <b>HORSE SADDLE FENDER BENDER</b>		
Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450		
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.		
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.		
<b>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.</b> NOTE: A grantable petition requires the following items:		
(1) Petition fee. (2) Reply and/or Issue fee. (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Adequate showing of the cause of unavoidable delay.		
<b>1. Petition fee</b> <input checked="" type="checkbox"/> Small entity - fee \$ <u>250.00</u> (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27. <input type="checkbox"/> Other than small entity - fee \$ _____ (37 CFR 1.17(l)).		
<b>2. Reply and/or fee</b> <b>A</b> The reply and/or fee to the above-noted Office action in the form of <u>Affidavit, copy of Resonse,</u> (Identify the type of reply): <input type="checkbox"/> and return receipt postcard has been filed previously on _____ <input checked="" type="checkbox"/> is enclosed herewith. <b>B</b> The issue fee of \$ _____ <input type="checkbox"/> has been filed previously on _____ <input type="checkbox"/> is enclosed herewith.		

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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JUL 12 2005

PTO/SB/61 (09-04)

Approved for use through 07/31/2008, OMB 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

7/12/05

Date

M. Reid Russell

Typed or printed name

26,226

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Include with this fax transmission of the Petition for Revival of an Application for Patent Abandoned Unavoidably are an Affidavit (3 pages), credit card payment form, copy of the return receipt postcard and a copy of the Notice of Abandonment and the Amendment and Response. (8 pages)

(Please attach additional sheets if additional space is needed.)

[Page 3 of 3]

Examiner: Son T. Nguyen  
Serial No: 10/744,007 Art Unit: 3643

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Monte B. Willis

Examiner: Son T. Nguyen

Serial No: 10/744,007

Art Unit: 3643

Filed: 02/09/2004

For: SADDLE FENDER BENDER

**AMENDMENT AND RESPONSE**

Mail Stop Non-Fee Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Responsive to a first Office Action dated November 15, 2004, whereon a three (3) month shortened statutory time period for response is set to expire on February 15, 2005, applicant in the above-entitled case amends and responds as follows:

**In the Claims:**

1.(Currently Amended) A saddle fender bender comprising, a bar formed from a straight section of metal bar stock [that] having a rectangular cross section and is bent across its longest parallel sides to have and retain [an] a uniform arc along its entire length of approximately ninety (90) degrees and [having] has a length to extend at least partially across a lower portion of a saddle fender; a plurality of bolts each having a broad head end and is threaded along a bolt shaft; means

Examiner: Son T. Nguyen  
Serial No: 10/744,007 Art Unit: 3643

secured at spaced [interval] intervals along an inner arc surface of said bar for receiving each said bolt threaded shaft end turned therein to position said bolt broad head end undersurface into engagement with an outer surface edge of a hole formed through said fender wherethrough said bolt is passed.

Cancel Claim 2.

3.(Currently Amended) The saddle fender bender as recited in Claim 1, further including posts that are each internally threaded and are connected, at spaced intervals along, to extend at approximately right angles outwardly from[,] the bar inner arch surface, with each said post to fit through a hole formed through the fender and receive an end of one of the bolts threaded shafts ends turned therein.

4.(Currently Amended) The saddle fender bender as recited in Claim [2]~~3~~ wherein the posts are individually secured to the bar inner arch surface by soldering or brazing.

5.(Original) The saddle fender bender as recited in Claim 1, wherein the bar arched inner surface is drilled and tapped at spaced intervals therealong, with each said tapped hole to receive the end of one of the bolts threaded shafts turned therein.

6.(Original) The saddle fender bender as recited in Claim 1, wherein each bolt broad head includes a means formed into said bolt broad head to receive a turning tool fitted therein.

7.(Currently Amended) The saddle fender bender as recited in Claim 6, wherein the means for receiving a turning tool is a [side] sided hole formed in the bolt broad head center to receive a phillips head screw driver end or an Allen wrench end.

8.(Original) The saddle fender bender as recited in Claim 6, wherein the means for receiving

Examiner: Son T. Nguyen  
Serial No: 10/744,007 Art Unit: 3643

a turning tool is a slot formed across the bolt broad head, passing across the center of said bold broad head, to receive a screw driver blade fitted therein.

#### **REMARKS**

Claims 1 and 3 through 8 remain in the case after this Amendment and Response.

Applicant notes the rejection of Claim 4 under 35 USC 112, second paragraph, citing a lack of a prior antecedent basis for the phrase "the posts". Responsive thereto, applicant has here amended the dependency of Claim 4 from a dependency on Claim 2, that did not call for "posts", to a dependency upon Claim 3. Which Claim 2, by this amendment has been cancelled.

Applicant notes the rejection of the Original Claims of the case Claims 1 through 8 under 35 USC 103(a), citing a U.S. Patent to Stinnett, et al, No. 6,557,328, that is the primary cite reference. Applicant, responsive to the rejection of Claims 1 and 2, agrees that the '328 patent teaches a structure that performs a like function to that performed by the invention. Structurally, however, the devices are different. Where the '328 patent sets out a fender shaper having a front portion that is bent back from a curved corner, forming a rectangle body having sides that are 3 inches by 4 inches (Col. 4, lines 65&66), the present invention, as now particularly called for in amended Claim 1, is directed to a bar having a rectangular cross section that is bent through a continuous ninety degree arc. Such bar, of course, is lighter in weight and less likely to contact the side of a horse fitted with the saddle mounting the invention, than would the tall rectangular rear section of the '328 patent. To set out and distinguish the invention from a reasonable interpretation of the '328 patent, applicant has include the limitations of original Claim 2 with Claim 1, and has further amended Claim 1 to clearly set out that the bar is bent through a ninety degree arc, with that bend being continuous along

Examiner: Son T. Nguyen  
Serial No: 10/744,007 Art Unit: 3643

the length of the bar, versus the ninety degree bend in the plate of the '328 patent that is formed through a "curved corner" (Col. 3, line 48). Further, Claim 1 has been amended to more clearly point out that the bar, wherefrom the invention is formed, has a rectangular cross section, unlike the plate wherefrom of the device of the '328 patent is formed, and that the bend formed in the rectangular bar of the invention is formed across the rectangle longest parallel sides. Based upon the above, applicant respectfully submits that the Examiner's analysis that the bar stock of the invention produces a saddle fender bending unit that is equivalent to the fender shaper formed from plate stock of the '328 patent is incorrect, and that the present invention, as now claimed, is distinct from a reasonable interpretation of the '328 patent.

Applicant also notes the rejections of Claims 3, 4, 5 and 6 through 8, again citing the '328 patent as relating to the posts and their mountings and use as involves forming means in the bolts head ends for receiving turning tools. While, as the Examiner admits, the '328 patent does not specifically show the posts and bolt arrangements of the invention, it does involve fasteners performing essentially the same functions. However, as the Claims 3 through 8 are ultimately dependent upon Claim 1, as now amended to contain the structure of Claim 2, the amended Claim 1 should now be in proper condition for allowance, as should the claims dependent thereon. Applicant therefore believes that independent Claim 1, and the Claims dependent thereon, should now be in proper condition for allowance and respectfully requests same.

Respectfully submitted,



M. Reid Russell



Examiner: Son T. Nguyen  
Serial No: 10/744,007 Art Unit: 3643

Registration No: 26,226

854 West 3390 South

Hurricane, Utah 84737

435-674-5739.

MRR/rr

Docket No. 7676

Date: February 9, 2005

Examiner: Son T. Nguyen  
Serial No: 10/744,007 Art Unit: 3643

**AMENDMENTS TO CLAIMS - PER 37 CFR 1.121**

1.(Currently Amended) A saddle fender bender comprising, a bar formed from a straight section of metal bar stock [that] having a rectangular cross section and is bent across its longest parallel sides to have and retain [an] a uniform arc along its entire length of approximately ninety (90) degrees and [having] has a length to extend at least partially across a lower portion of a saddle fender; a plurality of bolts each having a broad head end and is threaded along a bolt shaft; means secured at spaced [interval] intervals along an inner arc surface of said bar for receiving each said bolt threaded shaft end turner therein to position said bolt broad head end undersurface into engagement with an outer surface edge of a hole formed through said fender wherethrough said bolt is passed..

2.(Canceled) The saddle fender bender as recited in Claim 1, the bar has a rectangular cross section and is bent across its longest parallel sides.

3.(Currently Amended) The saddle fender bender as recited in Claim 1, further including posts that are each internally threaded and are connected, at spaced intervals along, to extend at approximately right angles outwardly from[,] the bar inner arch surface, with each said post to fit though a hole formed through the fender and receive an end of one of the bolts threaded shafts ends turned therein.

4.(Currently Amended) The saddle fender bender as recited in Claim [2]3 wherein the posts are individually secured to the bar inner arch surface by soldering or brazing.

5.(Original) The saddle fender bender as recited in Claim 1, wherein the bar arched inner surface is drilled and tapped at spaced intervals therealong, with each said tapped hole to receive the

Examiner: Son T. Nguyen  
Serial No: 10/744,007 Art Unit: 3643

end of one of the bolts threaded shafts turned therein.

6.(Original) The saddle fender bender as recited in Claim 1, wherein each bolt broad head includes a means formed into said bolt broad head to receive a turning tool fitted therein.

7.(Currently Amended) The saddle fender bender as recited in Claim 6, wherein the means for receiving a turning tool is a [side] sided hole formed in the bolt broad head center to receive a phillips head screw driver end or an Allen wrench end.

8.(Original) The saddle fender bender as recited in Claim 6, wherein the means for receiving a turning tool is a slot formed across the bolt broad head, passing across the center of said bold broad head, to receive a screw driver blade fitted therein.

Examiner: Son T. Nguyen  
Serial No: 10/744,007 Art Unit: 3643

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non- Fee Amendments, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450 on February 9, 2005.



M. Reid Russell

February 9, 2005

Date

List of items sent:

Amendment and Response

Copy of Amended Claims

Return Receipt Postcard

Acknowledging receipt of US Patent Application  
Amendment and Response including Copy of the  
Amended Claims and Mailing Certificate.

Docket No: 7676  
Applicant: Willis  
Mailed: February 9, 2005




10 744,007

<b>Notice of Abandonment</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/774,007	WILLIS, MONTE B.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Son T. Nguyen	3843	

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-**

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 15 November 2004.
  - ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - ☒ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - ☐ The issue fee and publication fee, if applicable, has not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

  
 Son T. Nguyen  
 Primary Examiner  
 Art Unit 3843

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.